IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 1111 OF 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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SMT.CHANDANBEN CHIMANLAL VORA
WIFE - THROUGH P.O.A.JITENDRABHAI - Petitioner(s)
Versus
STATE OF GUJARAT & ORS. - Respondent(s)

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Appearance :
SHRI P.J. KANABAR for Petitioner(s).
SHRI A.Y. KOGJE, AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 20/11/2006

ORAL JUDGMENT

1. The petitioner (since deceased), who could secure two Acres of land for industrial purpose, did not start the industry and prayed for extension of time, the time was extended upto 1989. In the year 1989, the

petitioner- applicant made an application to the Collector under Section 65, read with Section 65A, of the Bombay Land Revenue Code, 1879 seeking permission to change the user, that is, from industrial to residential. The learned Collector rejected the application and as the order has been confirmed in the appeal/revision by the State, the petitioner is before this Court.

2. Shri Kanabar, learned Counsel for the petitioner, submits that the procedure prescribed under Section 65/65A has not been complied with and as no inquiry was made, the orders passed by the subordinate Authorities/Tribunals are bad.

3. It is to be noted that within the township itself, the petitioner could secure two acres of agricultural land for the industrial purpose. Thereafter, he started seeking extension and ultimately, made an application that as the firing range was very close, the petitioner would not be in a position to start the industry.

4. During the course of the arguments, Shri Kanabar, learned Counsel for the petitioner, submits that the entire vicinity adjoining the present land in dispute

has been converted into residential area, therefore, this land could also be converted into residential area. The application for change of use was submitted on the ground that because of the close by firing range, establishment of the industry was not feasible. If that was the reason, then, conversion to residential area would even be more dangerous to the people occupying that area and if the area has already been converted into residential area, then, nobody stops the petitioner from establishing his industrial unit, for which he had taken the land from the Government.

5. The authorities were absolutely justified in rejecting the application. The petition is dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

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